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Mr. Ayer

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-203579

**DATE:** June 29, 1981

**MATTER OF:** Mark A. Carroll & Son, Inc.

**DIGEST:**

Where initial [protest of cancellation and follow-on reprocurement] is untimely filed with contracting agency, GAO will not consider protest when subsequently filed with GAO.

Mark A. Carroll & Son, Inc. (Carroll), protests the General Services Administration (GSA) cancellation and follow-on resolicitation of project No. RNH79518 for X-Ray HUD Computer and Space Alterations, Norris Cotton Federal Building, Manchester, New Hampshire.

In our view, Carroll's protest is untimely and not for consideration on the merits. Under the first procurement, Carroll submitted the only offer on November 5, 1980. Carroll's bid was rejected by GSA on November 26, 1980, on the ground that Carroll's price was excessive. The procurement was later resolicited with a 2 p.m., April 22, 1981, bid opening date. Carroll protested to GSA on April 22, 1981, by mailgram. GSA received the mailgram at 7:48 p.m., April 22, 1981, approximately 5 hours after bid opening. We received Carroll's subsequent protest to our Office on June 5, 1981.

Our Bid Protest Procedures, 4 C.F.R. part 20 (1980), provide that we will consider protests which were initially filed with the contracting agency if the subsequent protest to our Office is filed within 10 days of initial adverse agency action "provided the initial protest to the agency was filed in accordance with the time limits prescribed in paragraph (b) of this section \* \* \*." 4 C.F.R. § 20.2(a) (1980). Carroll's protest was not filed within the paragraph (b) time limits since Carroll failed to protest either the cancellation or the follow-on resolicitation until after

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bid opening of the resolicitation on April 22, 1981. Paragraph (b) allowed Carroll only 10 working days after receipt of the November 26, 1981, notice of cancellation in which to protest the cancellation, 4 C.F.R. § 20.2(b)(2) (1980), and it required Carroll to protest the resolicitation prior to bid opening since it constituted an impropriety apparent on the face of the resolicitation, 4 C.F.R. § 20.2(b)(1) (1980). Carroll's post-bid-opening protest to GSA meets neither time limit.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel